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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,301

01/25/2005

John Kvist Ostergaard

PATRADE

9170

7590

10/07/2008

James C Wray  
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EXAMINER

MISKA, VIT W

ART UNIT

PAPER NUMBER

2833

MAIL DATE

DELIVERY MODE

10/07/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,301	<b>Applicant(s)</b> OSTERGAARD ET AL.	
	<b>Examiner</b> Vit W. Miska	<b>Art Unit</b> 2833	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 9, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8, 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4, 7, 9 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by the U.S. Patent to Parkhurst et al (5412372).
2. The reference discloses a packaging blister foil (col. 6, lines 57-63) with a blister label 148 for use in packaging of capsules 31, the label being rupturable (col. 11, line 66) in zones corresponding to the blisters, electrical connection means 156 from each drug dose having a resistance value (col. 13, line 41), each electrical connection is connected at either end to first and second leads 154, 180 in parallel connection and terminating in two contact islands 154, 180 adjacent an end of the blister label as shown in Fig. 6, second set of contact islands 181, 154 at the opposite end of the first islands as seen in Fig. 6 (i.e. at opposite ends of board 152), reference resistor (col. 13, line 55), second set of connection means 156 (on the left side of board 152 in Fig. 6)

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connected in the same manner as the right side connection means, the blister label being perforated along each rupturable zone (col. 14, line 24), all leads sharing the same contact islands as seen in Fig. 6, data pertaining to drug identification being stored in the label (col. 11, line 18).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parkhurst et al. The placement of the contact islands on the label would be an obvious matter of design for one of ordinary skill in the art. An asymmetrical arrangement thereof would be an obvious means for ensuring the alignment of the label within the device in the correct position.

4. Claims 5, 6, 8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's comments have been given careful consideration, but have not been found persuasive. With respect to the term "blister label", Parkhurst discloses the same at 148, described at col. 9, lines 39ff as "sensor sheet 158...which has non-conducting outer layers 150 and 152 and two conductive metallic foil, circuit layers 154 and 156 therebetween". Layer 148 is further "provides normally-closed switch-like structures adjacent the blister package and overlying hole 122 of the medication panel 114.", col. 9, lines 11-13. "blister label" 148 thus "closes off" the blister in the packaging blister foil, as recited in claim 1. Blister label 148 thus overlies the blister foil containing the medication in the blisters thereof. Claim 1 lacks any reference to "sealing" of the depressions of the blister package, as alleged by applicant at page 8. It is not clear what elements of claim 1 corresponding to the recited blister foil and label are not met in Parkhurst.

6. Regarding the argument at page 9 with respect to elements 154, 180 being a contact island and a lead, element 154 is common to connections 156 and thus constitutes a lead and a contact island at the terminal end thereof. Element 180 extends across all connections 156 and is therefore a contact for each of these, and constitutes a contact island at the terminal end thereof, as shown in Fig. 6, at the bottom of the figure at 180 or at the top at 164.

7. Claims 5,6,8 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vit W. Miska/  
Primary Examiner, Art Unit 2833